

# HOUSE . . . . . No. 1381

By Mr. Kulik of Worthington, petition of Stephen Kulik and others for legislation to establish old growth forest reserves in the Commonwealth. Environment, Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

### PETITION OF:

Stephen Kulik	Richard T. Moore
Peter V. Kocot	Karen E. Spilka
Douglas W. Petersen	Patricia D. Jehlen
Denis E. Guyer	

In the Year Two Thousand and Five.

### AN ACT AUTHORIZING THE ESTABLISHMENT OF OLD GROWTH FOREST RESERVES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 132 of the General Laws is hereby  
2 amended by adding the following four sections:—  
3 Section 52. It is hereby declared to be the policy of the com-  
4 monwealth to protect old growth forests for the purpose of pro-  
5 tecting exemplary forest habitats, maintaining biodiversity  
6 associated with old growth forest systems and establishing eco-  
7 logical benchmarks for assessing the health of forests statewide.  
8 Therefore, the commonwealth determines that a system of perma-  
9 nent old growth forest reserves shall be established on lands  
10 owned and administered by the commonwealth for the department  
11 of environmental management and the division of fisheries,  
12 wildlife and environmental law enforcement.  
13 Section 53. For the purposes of sections 52 to 55, inclusive, the  
14 following words shall have the following meanings:  
15 “Buffer area”, an area immediately adjacent to an old growth  
16 forest that is of sufficient size and configuration, as determined by  
17 the secretary for each old growth forest, to protect the old growth

18 forest from human activity and alteration and the effects of natural  
19 disturbances such as wind, storms, fire, insect infestation, invasive  
20 species and disease.

21 “Future old growth forest”, a forest adjacent to an old growth  
22 forest that: (1) exhibits some old growth characteristics; (2) occurs  
23 in direct association with and as an integral part of an old growth  
24 forest; and (3) has the capacity to protect old growth forest areas  
25 because of its forest characteristics and location.

26 “Old growth forest”, an area of contiguous forest that: (1)  
27 shows no evidence of significant human, post-European distur-  
28 bance that originated on site; (2) has a significant component of  
29 older trees that are greater than 50 percent of the maximum  
30 longevity for the particular species; (3) is at least five acres in  
31 size; and (4) has either: (i) the capacity for self-perpetuation; or  
32 (ii) the characteristics of a forest which are indicative of an old  
33 growth forest and which otherwise meets the criteria established  
34 by regulations of the secretary. Modification of this definition may  
35 be made by regulation to incorporate future scientific advances in  
36 the understanding of old growth forests.

37 “Old growth forest reserve”, forest area comprised of old  
38 growth forest, buffer area and future old growth forest.

39 “Recommending party”, the commissioner of conservation and  
40 recreation or the commissioner of fish and game.

41 “Secretary”, the secretary of environmental affairs.

42 “State-owned land”, forest land owned by the commonwealth  
43 under the custody and control of the department of conservation  
44 and recreation or the department of fish and game.

45 “Existing Use”, any commercial or recreational project, facility,  
46 roadway, industrial or utility corridor, or the repair or future main-  
47 tenance therein within its existing parameters: (1) existing at the  
48 time of enactment, or (2) having received Massachusetts Environ-  
49 mental Policy Act (MEPA) approval and permits from all applic-  
50 able state and federal agencies at the time of enactment, and  
51 which if challenged in a timely judicial proceeding has been  
52 upheld by a final court order.

53 Section 54. (a) The secretary shall conduct an inventory of the  
54 forests on state-owned land to determine the extent and condition  
55 of old growth forest stands in the context of the surrounding land-  
56 scape in which they occur. The inventory shall identify old growth

57 forests and buffer areas and shall include an assessment and selec-  
58 tion of future old growth forest areas that exhibit characteristics  
59 which, if left undisturbed, would meet the definition of an old  
60 growth forest.

61 (b) The secretary may designate a reserve comprised of old  
62 growth forest or future old growth forest, together with buffer  
63 areas, after the forest area has been presented by a recommending  
64 party to the secretary in accordance with regulations set by the  
65 secretary. In approving, rejecting or modifying a designation, the  
66 secretary shall consider: (1) whether the area recommended is  
67 consistent with the definition of old growth forest, future old  
68 growth forest or buffer area; (2) whether such designation is con-  
69 sistent with the ecological, historical, educational, cultural, water  
70 supply, recreational and other public values of the area; and (3)  
71 the role of the proposed area within a statewide old growth forest  
72 reserve system. If the recommended area meets the definition set  
73 forth in section 53 of this chapter and other criteria set by the sec-  
74 retary pursuant to this section, the secretary shall, after a public  
75 hearing, held within 180 days of the presentation to the secretary  
76 and conducted in the region in which the recommended area is  
77 located pursuant to regulations promulgated by the secretary, des-  
78 ignate it as an old growth forest reserve. The reserve shall be  
79 defined by a visible boundary. Any ten citizens of the common-  
80 wealth other than the recommending parties may present areas for  
81 designation to the secretary, subject to criteria to be established by  
82 the secretary by regulation.

83 Section 55. (a) The secretary shall develop, in consultation with  
84 the recommending party and, if different, the administering  
85 agency, plans for the management and protection of old growth  
86 forest reserves consistent with the regulations. The secretary shall  
87 authorize the continuation of fishing and hunting in designated old  
88 growth forest reserves unless prohibitions thereon had been in  
89 effect or unless fishing and hunting is thereafter determined inap-  
90 propriate by the administering agency. The secretary may autho-  
91 rize the continuation of existing recreational uses and facilities  
92 within the old growth forest reserve if they do not significantly  
93 contribute to erosion or other harmful impacts on the forest  
94 resources. Upon a determination of the adequacy of a recommen-  
95 dation, the secretary shall immediately establish a moratorium on

96 any activity incompatible with the establishment of an old growth  
97 forest reserve for the location pending outcome of a final determi-  
98 nation by the secretary.

99 (b) The following uses and activities shall be prohibited within  
100 the boundaries of old growth forest reserves: (i) new commercial,  
101 industrial, roadway or utility development; (ii) new or expanded  
102 recreational facilities and uses involving physical impacts to vege-  
103 tation or soils; and (iii) active timber management practices.  
104 Removal or alteration of vegetation and soils or collecting or har-  
105 vesting of plants shall be prohibited except as part of a scientific  
106 investigation or restoration program approved or conditioned by  
107 the secretary. The secretary shall develop regulations pursuant to  
108 chapter 30A for the establishment and management of old growth  
109 forest reserves. The prohibitions in this paragraph shall not apply  
110 to emergency personnel in the event of a medical or public safety  
111 emergency in an old growth forest reserve. The secretary may  
112 approve other exceptions to the prohibitions by issuing a written  
113 declaration of emergency in the event of a major accidental,  
114 human-induced disturbance, such as when the introduction of  
115 exotic invasive plants, disease or insects threatens the integrity of  
116 an old growth reserve or in the event of a public health or public  
117 safety emergency. Natural forest fires and storm related damage  
118 shall not be considered emergencies except in the event of a sig-  
119 nificant threat to public health or public safety. The secretary shall  
120 restrict management of invasive plants, diseases or insects to  
121 activities that are essential to the maintenance of the natural char-  
122 acteristics of the old growth forest reserves and shall condition  
123 such activities to minimize interference with the development and  
124 maintenance of natural old growth forest conditions.

125 (c) Any person who violates this section or any rule or regula-  
126 tion promulgated pursuant to this section shall be punished by a  
127 fine of not more than \$25,000 or by imprisonment for not more  
128 than two years or both, or shall be subject to a civil penalty of not  
129 more than \$25,000 for each violation. Each day such violation  
130 occurs shall be considered a separate violation.

131 (d) The superior court shall have jurisdiction to enjoin viola-  
132 tions of, or to grant such additional relief as it deems necessary or  
133 appropriate to secure compliance with this section upon petition  
134 of the secretary or the attorney general.

135 (e) All fines and assessments received on account of litigation  
136 or settlement thereof for a violation of this section or regulations  
137 promulgated hereunder shall be retained by the department of con-  
138 servation and recreation or the department of fish and game,  
139 depending on whose land said violation occurred.

1 SECTION 2. The secretary of environmental affairs shall estab-  
2 lish a research and education program to monitor the status of  
3 forests within old growth forest reserves and to promote under-  
4 standing of old growth forest reserves.

1 SECTION 3. The secretary of environmental affairs shall report  
2 to the General Court within one year after the effective date of this  
3 act identifying the results of the inventory, the regulations devel-  
4 oped, and the progress made in designating old growth forest  
5 reserves and the preparation of management plans for old growth  
6 forest reserves.